

COPY

in Opinion

606

January 11, 1956

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Mr. Austin J. McCaffrey, Commissioner
Department of Education
State House Annex
Concord, New Hampshire

SEP 22 1998

CONCORD, N.H.

Dear Mr. McCaffrey:

I have the carbon copy of letter dated January 6, 1956 addressed to you by Walter D. Hinkley, Chairman, Lancaster School Board.

It appears to me from the last paragraph of Mr. Hinkley's letter that he does not understand the opinion rendered. Regulations relating to operation of buses are covered by the regulations issued by the Commissioner of Motor Vehicles. The regulation of the pedestrian activities of school children, in my opinion, stands no different than the regulation of their activities in playground play.

The freedom of the school district from liability is reflected in the decisions of Plasency v. Manchester, 82 N.H. 458 and Harkinson v. Manchester, 90 N.H. 544.

The statutory authority of RSA 189:6, 7, 8, 15, 36, taken in connection with RSA 412:3, and the decision in Wiseman v. Merrill, 99 N.H. 256, 261, appear to me to constitute a sound basis for school boards to make proper regulations for the pedestrian conduct of school children after they alight from buses whether the buses are owned by the district or by independent contractors.

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State of New Hampshire

OFFICE OF ATTORNEY-GENERAL

Mr. Austin J. McCaffrey -- 2,

January 11, 1956

If it is felt that there is a liability which exists by reason of the making of a regulation, it may well be that the same liability exists for failure to make a proper regulation. On this latter point we offer no opinion since in matters relating to their individual liability it is believed that school board members should be guided by their own judgment and counsel.

I enclose herewith extra copy which you may wish to send to Mr. Hinkley.

Very truly yours,

George F. Nelson
Assistant Attorney General

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Encl.